

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF TENNESSEE
NASHVILLE DIVISION

SOKUN CHAY)
)
v.) NO. 3-11-1177
) JUDGE CAMPBELL
LEASE FINANCE GROUP, LLC,)
et al.)

ORDER

Pending before the Court are a Report and Recommendation of the Magistrate Judge (Docket No. 84) and Partial Objections filed by the Plaintiff (Docket No. 88).

Pursuant to 28 U.S.C. § 636(b)(1), Fed. R. Civ. P. 72(b)(3) and Local Rule 72.03(b)(3), the Court has reviewed *de novo* the Report and Recommendation, the Objections, and the file.

Just prior to the filing of the Report and Recommendation, Plaintiff filed a Notice of Voluntary Dismissal (Docket No. 83), in which she attempted to voluntarily dismiss her case, without prejudice, contingent on the parties handling their own expenses. Thereafter, Defendants filed a Notice That They Have Not Consented to Dismissal Without Prejudice (Docket No. 86). Defendants correctly point out that because they have all filed Answers in this matter, Rule 41 requires that all parties appearing in the case consent to and sign any dismissal. Fed. R. Civ. P. 41(a)(1)(A)(ii). Defendants do not so consent.

The Magistrate Judge recommends that Plaintiff's Complaint be dismissed as a sanction for Plaintiff's failure to appear for deposition and then her failure to complete the deposition for which she did appear. The Court is satisfied that Plaintiff was warned of the consequences of failing to appear and cooperate in discovery. The Court further notes that there is no right under the Federal

Rules of Civil Procedure or the Local Rules of this Court to thirty (30) days' notice before giving a deposition, as Plaintiff requests. Plaintiff filed this action and is responsible for pursuing her own claim and participating in the litigation.

For these reasons, the Partial Objections of the Plaintiff are overruled, and the Report and Recommendation of the Magistrate Judge (Docket No. 84) is adopted and approved. Defendants' Motion for Sanctions and Civil Contempt (Docket No. 72) is GRANTED in part and DENIED in part. This action is DISMISSED with prejudice, and the Clerk is directed to close the file. Defendants' Motion for Civil Contempt is DENIED.

The pretrial conference set for April 15, 2013, and the jury trial set for April 23, 2013, are canceled. Any pending Motions are denied as moot. This Order shall constitute the final judgment in this case pursuant to Fed. R. Civ. P. 58.

IT IS SO ORDERED.

Todd Campbell
TODD J. CAMPBELL
UNITED STATES DISTRICT JUDGE